# TOC Crime DA

## 1NC

### 1nc – (50s)

#### The war on drugs is declining –sentencing reform and new state laws prove.

Engel ’14, (PAMELA ENGEL, “The Decline Of The War On Drugs, In One Map,” Apr. 3, 2014//FT)

The U.S. has been gradually moving away from the war on drugs, which started in the '70s and has led to prisons overflowing with drug offenders on long sentences. A map from Pew Research Center (see right) shows how states have overwhelmingly been easing drug laws over the past few years, even in traditionally conservative areas. Easing drug laws includes lowering penalties for drug possession charges, shortening mandatory minimums, and providing alternatives to the traditional criminal justice system such as drug courts. Many states were forced to cut their budgets after the economic collapse in 2008, so legislators eased drug laws in part to cut prison costs. And lately, reforming drug policy has been a bipartisan effort. Attitudes of Americans have also shifted in recent years — in a Pew study, 67% of people said government should focus more on treating people who use illegal drugs, and only 26% said prosecution should be the focus. This differs drastically from 25 years ago, when Americans thought law enforcement should be tough on drug offenders and 73% of Americans favored a mandatory death penalty for "major drug traffickers. By many accounts, the war on drugs has been a failure. It has cost the U.S. more than $1 trillion and drugs are no less prevalent today than they were when the drug war started.

#### Criminalizing possession replaces the war on drugs with the war on guns.

Gourevitch ’15: (Alex Gourevitch, assistant professor of political science at Brown University. "Gun Control’s Racist Reality: The Liberal Argument against Giving Police More Power." 24 June 2015. FT)

The dead are buried, the murderer apprehended, and the shock has started to wear off. Now comes the public reaction to the massacre in Charleston. Soon after the shootings at the Emanuel African Methodist Episcopal Church in Charleston, South Catolina, the first black president of the United States offered some thoughts on Dylan Roof’s racist attack. First and foremost, President Obama said, recent events were about how “innocent people were killed in part because someone who wanted to inflict harm had no trouble getting their hand on a gun.” The killings were also about a “dark chapter in our history,” namely racial slavery and Jim Crow. Obama only suggested practical action regarding the first issue, namely gun control. He did not consider that such measures will make the persistence of the second problem even worse. It is perhaps counterintuitive to say so but gun control responses to mass killings – whether racially motivated or otherwise – are a deep mistake. The standard form of gun control means writing more criminal laws, creating new crimes, and therefore creating more criminals or more reasons for police to suspect people of crimes. More than that, it means creating yet more pretexts for a militarized police, full of racial and class prejudice, to overpolice. As multiple police killings of unarmed black men have reminded us, the police already operate with barely constrained force in poor, minority neighborhoods. From SWAT to stop-and-frisk to mass incarceration to parole monitoring, the police manage a panoply of programs that subject these populations to multiple layers of coercion and control. As a consequence, more than 7 million Americans are subject to some form of correctional control, an extremely disproportionate number of whom are poor and minority. While it is commonly assumed that the drug war is to blame for all this, work by scholars like Benjamin Levin and Jeff Fagan demonstrates that already existing gun control efforts also play an important role. One of the most notorious areas of policing, the NYPD’s stop-and-frisk program, was justified as a gun control rather than a drug war measure. In the name of preventing violence, hundreds of thousands of poor minorities are subject to searches without probable cause each year. Further, a range of Supreme Court-authorized exceptions to standard Fourth Amendment protections against illegal search and seizure derive from a concern with gun violence. This invasiveness is a necessary feature of criminalized gun possession. After all, policing guns is just like policing drugs. Like drugs, there are a vast number of guns. Possession is far more widespread than can possibly be policed so decisions have to be made about where to devote resources. Furthermore, since possession itself is the crime, the only way to police that crime is to shift from actual harm to identifying and preventing risks. As legal scholar Benjamin Levin argues in a forthcoming piece “Searching for guns – like searching for drugs – can easily become pretextual, a proxy for some general prediction of risk, danger, or lawlessness.” In other words, there must be selective enforcement, where enforcement includes invasive searches based on existing prejudices about who is and isn’t dangerous. For example, as research by Jeff Fagan and Garth Davies shows, in the late 1990s, the NYPD used suspected weapons violations to justify numerous stops, even though these stops resulted in fewer arrests than stops for other crimes. And when it comes to individualized assessments of who is dangerous and worthy of punishment, every study shows steep, and unfounded, bias. Michelle Alexander, quotes a former U.S. attorney in her recent sensation, “The New Jim Crow,” saying the following: “I had an [assistant U.S. attorney who] wanted to drop the gun charge against the defendant [in a case which] there were no extenuating circumstances. I asked, ‘Why do you want to drop the gun offense?’ And he said, ‘He’s a rural guy and grew up on a farm. The gun he had with him was a rifle. He’s a good ol’ boy, and all good ol’ boys have rifles, and it’s not like he was a gun-toting drug dealer.’ But he was a gun-toting drug dealer, exactly.” This isn’t just a point about conscious and unconscious biases towards poor minorities – biases that some imagine can be removed with proper training. No matter how neutral the laws are, their enforcement must remain unequal and unfair. That is because the policing involved would never be tolerated if they affected politically influential groups to the same degree. These policing practices persist because they are disproportionately directed against marginal populations. Once individuals find themselves arrested gun control reappears as a reason for increasing punishment. Gun possession can be used to enhance sentences for other crimes and even functions as a kind of double punishment when that possession becomes the reason for also tacking on an extra criminal charge. Gun charges are also a part of the excessive and racially unequal over-charging practices that not only contribute to rising incarceration rates but also ends force numerous individuals away from trial and into plea bargains. Poor Blacks and Latinos are easily intimidated by charge-happy prosecutors into accepting plea deals, meaning they never see their day in court. Some even end up admitting to crimes they did not commit just to avoid the possibility of more severe punishments. More criminal gun laws would only feed this deeply unjust system. There is an unrecognized gap between the justification for gun control and its most likely effect. There is no reason to expect fair enforcement of gun control laws, or even that they will mainly be used to someone prevent these massacres. That is because how our society polices depends not on the laws themselves but on how the police – and prosecutors and courts – decide to enforce the law. Especially given how many guns there are in the U.S., gun law enforcement will be selective. That is to say, they will be unfairly enforced, only deepening the injustices daily committed against poor minorities in the name of law and order.

#### Outweighs and turns the case.

Thompson ’14: (Heather Ann Thompson. “Inner-City Violence in the Age of Mass Incarceration: Harsh criminal-justice policies have thrown America's poorest urban communities into chaos.” The Atlantic, Oct 30 2014//FT)

According to one well-respected scholar, "high rates of black crime" continue to exist despite declining crime rates nationally because African Americans live in highly segregated and deeply impoverished neighborhoods. Not only does his work suggest that both segregation and poverty breed violence but, more disturbingly, that the ways in which poor blacks decide collectively and individually to protect themselves seems only to "fuel the violence," and gives it "a self-perpetuating character." Segregation and poverty are indeed serious problems today, and too many of America’s poorest all-black and all-brown communities also suffer a level of violence that, if one disregards the horrific killing sprees in places like Columbine, Seattle, or Sandy Hook, is largely unknown in whiter, more affluent neighborhoods. Whereas the violent crime rate in the mostly black city of Detroit was 21.23 per 1,000 (15,011 violent crimes) in 2012, that same year the virtually all-white city of Grosse Point, Michigan nearby reported a rate of only 1.12 per 1,000 (6 violent crimes). Notwithstanding such seemingly damning statistics, though, we have all seriously misunderstood the origins of the ~~almost-paralyzing~~ violence that our most racially-segregated communities now experience and, as troublingly, we have seriously mischaracterized the nature of so much of the violence that the residents of these communities suffer. To start, locating today’s concentrated levels of gun violence in hyper-segregation and highly concentrated poverty is quite ahistorical. As any careful look at the past makes clear, neither of these social ills is new and, therefore, neither can adequately explain why it is only recently that so many children of color are being shot or killed in their own communities. Indeed, throughout the twentieth century, racially-segregated communities have been the norm. Everything from restrictive covenants to discriminatory federal housing policies ensured that throughout the postwar period, neighborhoods in cities such as Detroit or Chicago would be either all white or all non-white and, until now, none of these segregated spaces experienced sustained rates of violence so completely out of step with national trends. To suggest, as both scholars and the media have, that the violence experienced by all-black or all-brown neighborhoods today stems in large part from their residential isolation is problematic for other reasons as well. It leads some to suspect that if people of color simply spent more time with white people, lived next to them, and went to school with them, they would be less violent—they would perhaps learn better ways to resolve disputes and deal with stress and anger. Again, though, history belies this logic. White Americans also have a long history of violence—not only when asked to share residential space with African Americans or even to treat them as equals in schools or on the job, but also when nary a person of color is near. From the lynching of blacks in the Jim Crow era to the crimes committed against African Americans every time they tried to move onto a white block after World War I and World War II, ugly incidents of white violence were both regular and unremarkable. Even among those who look just like them, whites historically have engaged in a variety of violent behaviors that would make many shudder—from their propensity to engage in brutal duels and to “eye gouge” their fellow whites in the decades before the Civil War, to their involvement in mass shootings in more recent years. Just as hyper-segregation doesn’t explain the violence that so many have to endure today in America’s inner city communities while still raising children, attending church, and trying to make ends meet, neither does highly-concentrated poverty. Because of their exclusion from virtually every program and policy that helped eventually to build an American middle class, non-whites have always had far less wealth than whites. From the ability to maintain land ownership after the Civil War, to the virtual guarantee of welfare benefits such as Social Security and FHA loans during the New Deal, to preferential access to employment and housing in the postwar period, white communities have always had considerably more economic advantage than communities of color. And yet, no matter how poor they were, America’s most impoverished communities have never been plagued by the level of violence they are today. But if neither racial segregation nor the racial poverty gap can account for the degree to which poor communities of color are traumatized today, then what does? What is altogether new is the extent to which these communities are devastated by the working of our nation’s criminal justice system in general and by mass incarceration in particular. Today's rates of incarceration in America's poorest, blackest, and brownest neighborhoods are historically unprecedented. By 2001, one in six black men had been incarcerated and, by the close of 2013, black and Latino inmates comprised almost 60 percent of the nation’s federal and state prison population. The numbers of incarcerated black women are also stark. According to the Bureau of Justice Statistics, young black women ages 18 to 19 were almost five times more likely to be imprisoned than white women of the same age in 2010. When President Lyndon B. Johnson passed the Law Enforcement Assistance Act in 1965—legislation which, in turn, made possible the most aggressive war on crime this nation ever waged—he was reacting not to remarkable crime rates but to the civil rights upheaval that had erupted nationwide just the year before. This activism, he and other politicians believed, represented not participatory democracy in action, but instead a criminal element that would only grow more dangerous if not checked. Notably, the national policy embrace of targeted and more aggressive policing as well as highly punitive laws and sentences—the so-called “War on Crime” that led eventually to such catastrophic rates of imprisonment—predated the remarkable levels of violence that now impact poor communities of color so disproportionately. In fact, the U.S. homicide rate in 1965 was significantly lower than it had been in several previous moments in American history: 5.5 per 100,000 U.S. residents as compared, for example, with 9.7 per 100,000 in 1933. Importantly, though, whereas the violent crime rate was 200.2 per 100,000 U.S. residents in 1965, it more than tripled to a horrifying 684.6 per 100,000 by 1995. Though mass incarceration did not originate in extraordinarily high rates of violence, mass incarceration created the conditions in which violence would surely fester. The quadrupling of the incarceration rate in America since 1970 has had devastating collateral consequences. Already economically-fragile communities sank into depths of poverty unknown for generations, simply because anyone with a criminal record is forever “marked” as dangerous and thus rendered all but permanently unemployable. Also, with blacks incarcerated at six times and Latinos at three times the rate of whites by 2010, millions of children living in communities of color have effectively been orphaned. Worse yet, these kids often experience high rates of post-traumatic shock from having witnessed the often-brutal arrests of their parents and having been suddenly ripped from them. De-industrialization and suburbanization surely did their part to erode our nation’s black and brown neighborhoods, but staggering rates of incarceration is what literally emptied them out. As this Pew Center of the States graphic on Detroit shows, the overwhelmingly-black east side of the Motor City has been ravaged by the effects of targeted policing and mass incarceration in recent years with one in twenty-two adults there under some form of correctional control. In some neighborhoods, the rate is as high as one in 16. Such concentrated levels of imprisonment have torn at the social fabric of inner city neighborhoods in ways that even people who live there find hard to comprehend, let alone outsiders. As the research of criminologist Todd Clear makes clear, extraordinary levels of incarceration create the conditions for extraordinary levels of violence. But even mass incarceration does not, in itself, explain the particularly brutal nature of the violence that erupts today in, for example, the south side of Chicago. To explain that, we must look again carefully and critically at our nation’s criminal justice system. The level of gun violence in today's inner cities is the direct product of our criminal-justice policies—specifically, the decision to wage a brutal War on Drugs. When federal and state politicians such as New York Governor Nelson Rockefeller opted to criminalize addiction by passing unprecedentedly punitive possession laws rather than to treat it as a public health crisis, unwittingly or not, a high level of violence in poor communities of color was not only assured but was guaranteed to be particularly ugly. This new drug war created a brand-new market for illegal drugs—an underground marketplace that would be inherently dangerous and would necessarily be regulated by both guns and violence. Indeed, without the War on Drugs, the level of gun violence that plagues so many poor inner-city neighborhoods today simply would not exist. The last time we saw so much violence from the use of firearms was, notably, during Prohibition. “[As] underground profit margins surged, gang rivalries emerged, and criminal activity mounted [during Prohibition],” writes historian Abigail Perkiss, “the homicide rate across the nation rose 78 percent…[and] in Chicago alone, there were more than 400 gang-related murders a year.” As important as it is to rethink the origins of the violence that poor inner city residents still endure, we must also be careful even when using the term “violence,” particularly when seeking to explain “what seems to be wrong” with America’s most disadvantaged communities. A level of state violence is also employed daily in these communities that rarely gets mentioned and yet it is as brutal, and perhaps even more devastating, than the violence that is so often experienced as a result of the informal economy in now-illegal drugs. This is a violence that comes in the form of police harassment, surveillance, profiling, and even killings—the ugly realities of how law enforcement wages America’s War on Drugs. Today, young black men today are 21 times more likely than their white peers to be killed by the police and, according to a recent ProPublica report, black children have fared just as badly. Since 1980, a full 67 percent of the 151 teenagers and 66 percent of the 41 kids under 14 who have been killed by police were African American. Between 2010 and 2012 alone, police officers shot and killed fifteen teens running away from them; all but one of them black. This is the violence that undergirded the 4.4 million stop-and-frisks in New York City between 2004 and 2014. This is the violence that led to the deaths of black men and boys such as Kimani Gray, Amadou Diallo, Sean Bell, Oscar Grant, and Michael Brown. This is the violence that led to the deaths of black women and girls such as Rekia Boyd, Yvette Smith, and 7-year-old Aiyana Stanley-Jones. And this is the violence that has touched off months of protests in Ferguson, Missouri just as it also touched off nearly a decade of urban rebellions after 1964. A close look at the violence that today haunts America’s most impoverished and most segregated cities, in fact, fundamentally challenges conventional assumptions about perpetrators and victims. America’s black and brown people not only don’t have a monopoly on violence, but, in fact, a great deal of the violence being waged in their communities is perpetrated by those who are at least officially charged with protecting, not harming, them. As residents of Ferguson well know, for example, in the same month that Michael Brown was shot to death by a police officer, four other unarmed black men were also killed by members of law enforcement. Indeed, the true origins of today’s high rates of violence in America’s most highly segregated, most deeply impoverished, and blackest and brownest neighborhoods—whoever perpetrates it—are located well outside of these same communities. Simply put, America’s poorest people of color had no seat the policy table where mass incarceration was made. But though they did not create the policies that led to so much community and state violence in inner cities today, they nevertheless now suffer from them in unimaginable ways.

### 2nr – quantify

#### We’ll quantify the impact.

Kopel 92 David B. (Director of the Firearms Research Project at the Independence Institute, a Denver, Colorado think-tank. He also serves as an Associate Policy Analyst with the Cato Institute in Washington, D.C., and as a techincal consultant to the International Wound Ballistics Association. J.D. 1985, University of Michigan Law School; B.A. Brown University, 1982. Kopel's book, THE SAMURAI, THE MOUNTIE AND THE COWBOY: SHOULD AMERICA ADOPT THE GUN CONTROLS OF OTHER DEMOCRACIES? was awarded the Comparative Criminology Prize by the American Society of Criminology's Division of International Criminology) “Banning Handguns?” Washington Post http://www.davekopel.org/2A/OpEds/OpEdBanGun.htm FT

But while homicides of all types would increase, America would find itself increasingly short of the prison space in which to confine the additional murderers. The drug war (which Senator Chafee enthusiastically supports) is overwhelming the nation's prisons, making it increasingly difficult to confine violent criminals for lengthy terms. In many large cities, the criminal justice system is collapsing under the immense volume of drug prosecutions. The Chafee war on handguns would make the war on drugs look small time. In California, only 20% of gun-owners obeyed a requirement that they register their semi-automatics. In New Jersey, fewer than 2% of owners of "assault weapons" have complied with the legal mandate to surrender their guns. While there are only a few million "assault weapon" owners, about a quarter of all households in the United States contain a handgun. Under the most optimistic compliance scenarios, 15-20% of American households would ignore the handgun ban. Possessing newly-illegal handguns, tens of millions of Americans would now be defined as felons, eligible for Senator Chafee's five-year federal prison term. The number of new "gun criminals" would be at least as large as the current number of "drug criminals."

### 1nc – race

#### Race DA

Congress of Racial Equality ‘99: (Subimtted by Stephan Bijan Tshmassebi “The Congress of Racial Equality as amicus curiae US v. Timothy Joe Emerson US Court of Appeals, Fifth Circuit Filed December 17, 1999.”//FT)

Constitutional protections, other than those afforded by the right to keep and bear arms, have been and are threatened by the enforcement of restrictive firearms laws. The enforcement of present firearms controls account for a large number of citizen and police interactions, particularly in those jurisdictions in which the purchase or possession of certain firearms are prohibited. Between 1989 and 1998, arrests for weapons carrying and possession numbered between 136,049 and 224,395 annually. FBI Uniform Crime Reports, Crime in the United States Annual Reports(1989-1998) Table: Total Arrests, Distribution by Age.

The most common and, perhaps, the primary means of enforcing present firearms laws are illegal searches by the police. A former Ohio prosecutor has stated that in his opinion 50% to 75% of all weapon arrests resulted from questionable, if not clearly illegal, searches. Federal Firearms Legislation: Hearings Before the Subcomm. on Crime of the House Judiciary Committee, 94th Cong. 1589 (1975) [hereinafter House Hearings). A study of Detroit criminal cases found that 85% of concealed weapons carrying cases that were dismissed, were dismissed due to the illegality of the search. This number far exceeded even the 67% percent for narcotics dismissals, in which illegal searches are frequent. Note, Some Observations on the Disposition of CCW Cases in Detroit, 74 Mich. L. Rev. 614, 620-21 (1976). A study of Chicago criminal cases found that motions to suppress for illegal evidence were filed in 36% of all weapons charges; 62% of such motions were granted by the court. Critique, On the Limitations of Empirical Evaluation of the ExclusionaryBrzle, 69 NW. U.L. Rev. 740, 750 (1974). A Chicago judge presiding over a court devoted solely to gun law violations has stated:

The primary area of contest in most gun cases is in the area of search and seizure ... . Constitutional search and seizure issues are probably more regularly argued in this court than anywhere in America .... More than half these contested cases begin with the motion to suppress ... these arguments dispose of more contested matters than any other.

House Hearings, supra, at 508 (testimony of Judge D. Shields). These suppression hearing figures represent only a tiny fraction of the actual number of illegal searches that take place in the enforcement of current gun laws, as they do not include the statistics for illegal searches that do not produce a firearm or in which the citizen is not charged with an offense. The ACLU has noted that the St. Louis police department, in the mid•1970s, made more than 25,000 illegal searches "on the theory that any black, driving a late model car has an illegal gun." However, these searches produced only 117 firearms. Kates, Handgun Control: Prohibition Revisited, ma, at 23.

In light of these facts, many of the proponents of gun control have commented on the need to restrict other constitutionally-guaranteed rights in order to enforce gun control or prohibition laws. A federal appellate judge urged the abandonment of the exclusionary rule in order to better enforce gun control laws. Malcolm Wilkey, Why Suppress Valid Evidence?,W all Street J., Oct. 7, 1977, at 14. A police inspector called for a "reinterpretation" of the Fourth Amendment to allow police to assault strategically located streets, round up pedestrians en masse, and herd them through portable, airport•type gun detection machines. Detroit Free Press, Jan. 26, 1977, at 4. Prominent gun control advocates have flatly stated that "there can be no right to privacy in regard to armament." Norville Morris and Gordon Hawkins, The Honest Politician's Guide to Crime Control 69 (1970).

Florida v. J.L. involved a defendant who had been stopped, searched, and arrested by Miami police after an anonymous telephone caller claimed that one of three black males fitting the defendant's description was in possession of a firearm. Amongst other arguments, the State asked the Court to carve out a gun exception to the Fourth Amendment. The Supreme Court unanimously declined to create such an exception to the Fourth Amendment. Florida v. J.L., 120 S.Ct. 1375 (2000).

Statistics and past history show that many millions of otherwise law-abiding Americans would not heed any gun ban. One should consider America's past experience with liquor prohibition. Furthermore, in many urban neighborhoods, especially those of poor blacks and other minorities, the possession of a firearm for self-defense is often viewed as a necessity in light of inadequate police protection.

Federal and state authorities in 1975 estimated that there were two million illegal handguns among the population of New York City. Selwyn Raab, 2 Million Illegal Pistols. Believed Within the City, N.Y. Times, Mar. 2, 1975, at 1, (estimate by BATF); N.Y. Post, Oct. 7, 1976, at 5, col. 3 (estimate by Manhattan District Attorney). In a 1975 national poll, some 92% of the respondents estimated that 50% or more of handgun owners would defy a confiscation law. 121 Cong. Rec. 5189, 1 (daily ed. Dec. 19, 1975).

Even registration laws, as opposed to outright bans, measure a high percentage of non-compliance among the citizenry. In regard to Illinois' firearm owner registration law, Chicago Police estimated the rate of non-compliance at over two thirds, while statewide non-compliance was estimated at three fourths. In 1976, Cleveland city authorities estimated the rate of compliance with Cleveland's handgun registration law at less than 12%. Kates, eunrg, Handgun Control: Prohibition Revisited at 20 n.l. In regard to citizens' compliance with Cleveland's "assault gun" ban, a Cleveland Police Lieutenant stated: "To the best of our knowledge, no assault weapon was voluntarily turned over to the Cleveland Police Department ... considering the value that these weapons have, it certainly was doubtful individuals would willingly relinquish one." Associated Press, Cleveland Reports No Assault Guns Turned In, Gun Week, Aug. 10, 1990, at 2.

In response to New Jersey's "assault weapon" ban, as of the required registration date, only 88 of the 300,000 or more affected weapons in New Jersey had been registered, none had been surrendered to the police and only 7 had been rendered inoperable. Masters, Assault Gun Compliance Law, Asbury Park Press, Dec. 1, 1990, at 1. As of November 28, 1990, only 5,150 guns of the estimated 300,000 semiautomatic firearms banned by the May 1989 California "Assault Gun" law had been registered as required. Jill Walker, Few Californians Register Assault Guns, Washington Post, Nov. 29, 1990, at A27.

These results suggest that the majority of otherwise law-abiding citizens will not obey a gun prohibition law; much less criminals, who will disregard such laws anyway. It is ludicrous to believe that those who will rob, rape and murder will turn in their firearms or any other weapons they may possess to the police, or that they would be deterred from possessing them or using them by the addition of yet another gun control law to the more than twenty thousand gun laws that are already on the books in the U.S. James Wright, Peter Rossi and Kathleen Daly, Under the Gun: Weapons, Crime and Violence in America 244 (1983).

A serious attempt to enforce a gun prohibition would require an immense number of searches of residential premises. Furthermore, the bulk of these intrusions will, no doubt, be directed against racial minorities, whose possession of arms the enforcing authorities may view as far more dangerous than illegal arms possession by other groups.

As civil liberties attorney Kates has observed, when laws are difficult to enforce, "enforcement becomes progressively haphazard until at last the laws are used only against those who are unpopular with the police." Of course minorities, especially minorities who don't "know their place," aren't likely to be popular with the police, and those very minorities, in the face of police indifference or perhaps even antagonism, may be the most inclined to look to guns for protection • guns that they can't acquire legally and that place them in jeopardy if possessed illegally. While the intent of such laws may not be racist, their effect most certainly is. Tonso, supra, at 25.

### 1nc - forfeiture

#### Causes forfeiture abuses.

**Kopel:** Kopel, David B. [Research Director, Independence Institute]. “Peril or Protection: The Risks and Benefits of Handgun Prohibition” *Saint Louis University Public Law Review*, Volume 12. 1993. RP

Gun control laws, already destructive of Bill of Rights liberties, will become considerably more destructive if the Dixon prohibition proposal is enacted. About a quarter of all American families own handguns. [160] A 1979 survey of Illinois gun owners indicated that 73 percent would not comply with a gun prohibition. [161] Thus, **the number of new "handgun criminals" will become at least as large as number of drug criminals. Handgun criminals will be much harder to catch** than drug criminals, since an illegal handgun owner need only make a one-time buy (or just hold on to what she already has), whereas persons disobeying drug and alcohol prohibitions must buy **\*323** new supplies as old supplies are consumed. Accordingly, **an effective prohibition would likely have to be enforced with house to house** searches. The forfeiture abuses associated with the drug war c**ould** alsotranslate easily **into the handgun war, as** otherwise law-abiding **persons lose** their homes, automobiles, and businesses because a handgun was found therein, even if the owner of the property was not the owner of the handgun, and had no knowledge about the handgun's presence. Indeed, Chicago **Mayor** Richard **Daley has** already **initiated forfeiture proceedings** **against [cars]** automobiles **which contain a handgun in violation** of Chicago's prohibition. [162]

### 1nc – illicit trade

#### No solvency – it’s prohibition all over again

Benenson 86 (Mark K, a lawyer in New York, is executive secretary for the National Foundation for Firearms Education, “After a Handgun Ban, the Death Rate Will Soar,” March 23, 1986, http://articles.latimes.com/1986-03-23/opinion/op-5916\_1\_handgun-ban)//ghs-VA

Any effort to take the guns away would only be Prohibition all over again. Private civil disobedience--where innumberable unlicensed guns are owned despite the law--would flourish. Millions of Americans, already suspicious of governmental controls, would be further alienated. Any gun confiscation law would be the most lucrative political bonanza for the radical right since "the Democrats lost China." Some who favor handgun prohibition are well aware of the ubiquity and popularity of long guns and cannily eschew seeking general limitations on their use and ownership. We sportsmen and hunters are duly grateful for even this much wisdom. Alas, those who want to ban guns don't realize that seeking only the elimination of handguns, like most social experiments, irrestibly invites the intervention of the law of unintended consequences. If criminologists like Wright, Rossi, Kleck, Kates and Daley are right, the decades of furious dispute over constitutionality and enforceability has been irrelevant. Those who want to eliminate handguns from American society have now got to face up to the prediction that deaths would mount, not decline, as pistols are taken from criminal hands and deadlier weapons replace them.

#### There are around some 300 million hand guns in the U.S currently – buy back compliance would be super low – which means you can’t solve for availability

Kopel ’93: (David Kopel, research director at Independence Institute, and Jarret Wollstein, “Will You Be Safer If Guns are Banned?” Pamphlet for the Individual Society for Individual Liberty 1993//FT)

While a few Western democracies -- like Britain -- have successfully disarmed their citizens, that would be impossible in the U.S. Our traditions of independence and individual self-defense are simply not conducive to the peaceful disarmament of America's estimated 80 million gun owners. As one Congressman commented, "In Germany, if parliament passed a 45 mile-per-hour speed limit, people would obey it -- then kick out their representatives in the next election. In the U.S. no one would pay any attention to it. Americans wake up every morning thinking 'What's the angle? How can I get around the law?' "Disarming otherwise law-abiding citizens would simply put us at the mercy of well-armed criminals. Given a choice between obeying the law and being able to continue to defend our homes, our families, and our lives -- millions of Americans will gladly break the law. Many already do. Only **1% of residents of Denver and Boston have** voluntarily **complied with laws requiring them to register** their semi-automatic weapons. **In New York** City there are **an estimated** 700,000 to **3 million unregistered firearms**. **In California, less than 2% of the 2 million** owners of semi-automatic rifles **have registered their guns in compliance with state law** -- even though failure to register is a felony!

It may not even be possible to enforce a gun ban. The New York State commissioner of prisons testified that if 1% of illegal gun owners in [NYC] New York City were caught, tried, and sent to prison for a year, the state prison system would collapse.

#### Guns would be both imported and produced.

Kates 82 – bracketed for language Don B. Kates Jr (practices law with O'Brien and Hallisey in San Francisco), "Gun control versus gun prohibition," American Bar Association Journal, September 1982//FT)

Nor is there any reason to think that even a national prohibition could pre vent the development of a illegal black market sufficient to serve both criminals and ordinary citizens. If, for instance, handguns were smuggled into this\* country at the rate at which federal officials estimate marijuana is, more than 20 million guns of the size used to kill John Lennon could be imported illegally in any year. (There are only 60 million legally owned handguns at present.) Moreover, any competent machinist can build a revolver or automatic pistol from pot metal for a fraction of what even the cheapest commercially produced handgun costs. Can it be doubted that there would be thousands of "entrepreneurs" willing to build $15 junk .45s and .38s for a 500 per cent profit at illegal black market sale? Of course, this type of gun would not fire more than a few hundred rounds and would be accurate only at close range. But that is adequate for a buyer who wants a gun only for murder, robbery, or self-defense.

## 2NR

### 2nr ! – Blanks

#### Turns and outweighs the case.

Blanks ’15: (Jonathan Blanks. “Gun Control Will Not Save America from Racism.” Vice. June 22, 2015. FT)

But as politicians call for new gun laws in the wake of this racist attack, lawmakers ought to take a look at the origins and effectiveness of similar gun control measures that have passed, and their consequences—especially for black people. And in an era where blacks and other minorities continue to suffer from over-policing and disproportionately suffer the abuses of law enforcement, any new criminal laws should be carefully considered. Like many criminal laws, gun control legislation has disproportionately affected black people and contributed to sky-high rates of incarceration for minorities in the US. As Radley Balko wrote in the Washington Post last year: Although white people occasionally do become the victims of overly broad gun laws...the typical person arrested for gun crimes is more likely to have [black] complexion.... Last year, 47.3 percent of those convicted for federal gun crimes were black — a racial disparity larger than any other class of federal crimes, including drug crimes. In a 2011 report on mandatory minimum sentencing for gun crimes, the U.S. Sentencing Commission found that blacks were far more likely to be charged and convicted of federal gun crimes that carry mandatory minimum sentences. They were also more likely to be hit with "enhancement" penalties that added to their sentences. In fact, the racial discrepancy for mandatory minimums was even higher than the aforementioned disparity for federal gun crimes in general. Balko's piece goes on to detail the case of Shaneen Allen, a black woman and single mother who legally owned a firearm in Pennsylvania. She was arrested in New Jersey for having that weapon during a routine traffic stop in October 2013. She faced a three-year mandatory minimum sentence despite a clean record and having committed no other crime. Allen fortunately received a pardon from Governor Chris Christie as her case gained national attention. Another story that made headlines was that of Marissa Alexander, a black woman who was convicted and sentenced to a mandatory minimum 20 years in prison in Florida after firing what she claims was a warning shot in self-defense against her estranged husband. After public agitation and much legal wrangling, Alexander was offered a plea bargain and was released from prison in January after serving three years. This evidence is anecdotal, to be sure, but strict gun laws with harsh penalties aimed at punishing violent criminals can also ensnare law-abiding people who make mistakes. That these laws often affect people of color is not at all new.

### 2nr – illicit market plausible

#### After a gun ban, the growth of the underground market will be so explosive that no legal measure will stop it

Cook et al 06 summarizes Terry Philip J. Cook – professor at Duke University and NBER; Jens Ludwig – professor at Georgetown University and NBER ; Sudhir Venkatesh - professor at Columbia University; Anthony A. Braga – professor at Harvard University: “Underground Gun Markets” research was supported by a grant from the Joyce  
Foundation and written in part while Cook and Ludwig were resident fellows at the Rockefeller Foundation’s Bellagio Study and Research Center; August 2, 2006  
Don Terry – staff reporter, “How Criminals Get Their Guns: In Short, All Too Easily,” The New York Times, March 11, 1992, p. A1IG 12/16/15

Underground gun markets have developed in America in response to regulations that seek to prohibit ownership and possession by that sub-set of the population deemed to be at unacceptably high risk of misusing guns – primarily youth and adults with serious prior criminal records – while preserving easy access for everyone else. Whether 1 Most of what is known about the underground gun market comes from interviews with incarcerated prisoners or inner-city youth (for example Wright and Rossi, 1994, Webster et al., 2002, Sheley and Wright, 1993, Callahan and Rivara, 1992). However such interviews can at best shed light on how a subset of the retail market operates, and are not informative about other aspects of market structure or conduct. 3 the gun market can be segmented in this way remains the topic of spirited debate in U.S. policy circles. In Section 1 we review this regulatory system and note that a few jurisdictions, including Chicago, go further and essentially prohibit the private possession of handguns, the type of gun most commonly used in crime and violence. The fact that Chicago has unusually restrictive regulations makes the city an interesting case study.Economists and other skeptics like to point out that government prohibitions on transactions are difficult to enforce; the ingenuity of the marketplace, motivated by profit, will overcome whatever legal obstacles are put in place. If true for handguns in Chicago, then we would expect to find that youths and criminals are able to acquire them with little trouble (low transaction costs) at prices not that much higher from those in the legal market. As New York University law professor James Jacobs observes in this regard, “Some criminals claim that it is as easy to buy a gun on the streets as it is to buy fast food. One Chicago gang member stated, ‘It’s like going through the drive-through window. Give me some fries, a Coke, and a 9-millimeter” (2002, p. 150).2

## Key Issues

### Systemic outweigh

#### The aff’s systemic harms outweigh—

#### 1. Risk analysis requires you multiply every step in the link chain to get a probability estimate. If the DA has six steps, then even if each has a 90% success rate, the likelihood of the final impact is only .9 to the 6th power, which is less than a tenth of a percent.

#### 2. Systemic harms happen over a theoretically infinite time period, meaning they cause even more suffering

#### 2. Big threats are constructed by policymakers to avoid structural violence—prefer our impacts

Jackson 12—Director of the National Centre for Peace and Conflict Studies, the University of Otago. Former. Professor of International Politics at Aberystwyth University (8/5/12, Richard, The Great Con of National Security, http://richardjacksonterrorismblog.wordpress.com/2012/08/05/the-great-con-of-national-security/)

It may have once been the case that being attacked by another country was a major threat to the lives of ordinary people. It may also be true that there are still some pretty serious dangers out there associated with the spread of nuclear weapons. For the most part, however, most of what you’ve been told about national security and all the big threats which can supposedly kill you is one big con designed to distract you from the things that can really hurt you, such as the poverty, inequality and structural violence of capitalism, global warming, and the manufacture and proliferation of weapons – among others.¶ The facts are simple and irrefutable: you’re far more likely to die from lack of health care provision than you are from terrorism; from stress and overwork than Iranian or North Korean nuclear missiles; from lack of road safety than from illegal immigrants; from mental illness and suicide than from computer hackers; from domestic violence than from asylum seekers; from the misuse of legal medicines and alcohol abuse than from international drug lords. And yet, politicians and the servile media spend most of their time talking about the threats posed by terrorism, immigration, asylum seekers, the international drug trade, the nuclear programmes of Iran and North Korea, computer hackers, animal rights activism, the threat of China, and a host of other issues which are all about as equally unlikely to affect the health and well-being of you and your family. Along with this obsessive and perennial discussion of so-called ‘national security issues’, the state spends truly vast sums on security measures which have virtually no impact on the actual risk of dying from these threats, and then engages in massive displays of ‘security theatre’ designed to show just how seriously the state takes these threats – such as the x-ray machines and security measures in every public building, surveillance cameras everywhere, missile launchers in urban areas, drones in Afghanistan, armed police in airports, and a thousand other things. This display is meant to convince you that these threats are really, really serious.¶ And while all this is going on, the rulers of society are hoping that you won’t notice that increasing social and economic inequality in society leads to increased ill health for a growing underclass; that suicide and crime always rise when unemployment rises; that workplaces remain highly dangerous and kill and maim hundreds of people per year; that there are preventable diseases which plague the poorer sections of society; that domestic violence kills and injures thousands of women and children annually; and that globally, poverty and preventable disease kills tens of millions of people needlessly every year. In other words, they are hoping that you won’t notice how much structural violence there is in the world.¶ More than this, they are hoping that you won’t notice that while literally trillions of dollars are spent on military weapons, foreign wars and security theatre (which also arguably do nothing to make any us any safer, and may even make us marginally less safe), that domestic violence programmes struggle to provide even minimal support for women and children at risk of serious harm from their partners; that underfunded mental health programmes mean long waiting lists to receive basic care for at-risk individuals; that drug and alcohol rehabilitation programmes lack the funding to match the demand for help; that welfare measures aimed at reducing inequality have been inadequate for decades; that health and safety measures at many workplaces remain insufficiently resourced; and that measures to tackle global warming and developing alternative energy remain hopelessly inadequate.¶ Of course, none of this is surprising. Politicians are a part of the system; they don’t want to change it. For them, all the insecurity, death and ill-health caused by capitalist inequality are a price worth paying to keep the basic social structures as they are. A more egalitarian society based on equality, solidarity, and other non-materialist values would not suit their interests, or the special interests of the lobby groups they are indebted to. It is also true that dealing with economic and social inequality, improving public health, changing international structures of inequality, restructuring the military-industrial complex, and making the necessary economic and political changes to deal with global warming will be extremely difficult and will require long-term commitment and determination. For politicians looking towards the next election, it is clearly much easier to paint immigrants as a threat to social order or pontificate about the ongoing danger of terrorists. It is also more exciting for the media than stories about how poor people and people of colour are discriminated against and suffer worse health as a consequence.¶ Viewed from this vantage point, national security is one massive confidence trick – misdirection on an epic scale. Its primary function is to distract you from the structures and inequalities in society which are the real threat to the health and wellbeing of you and your family, and to convince you to be permanently afraid so that you will acquiesce to all the security measures which keep you under state control and keep the military-industrial complex ticking along.¶ Keep this in mind next time you hear a politician talking about the threat of uncontrolled immigration, the risk posed by asylum seekers or the threat of Iran, or the need to expand counter-terrorism powers. The question is: when politicians are talking about national security, what is that they don’t want you to think and talk about? What exactly is the misdirection they are engaged in? The truth is, if you think that terrorists or immigrants or asylum seekers or Iran are a greater threat to your safety than the capitalist system, you have been well and truly conned, my friend. Don’t believe the hype: you’re much more likely to die from any one of several forms of structural violence in society than you are from immigrants or terrorism. Somehow, we need to challenge the politicians on this fact.

### Ideal Theory

#### Intent and means-based frameworks reflect privilege and decenter oppressed voices

Utt ’13: Jamie Utt is a writer and a diversity and inclusion consultant and sexual violence prevention educator, “Intent vs. Impact: Why Your Intentions Don’t Really Matter,” July 30, 2013

Imagine for a moment that you’re standing with your friends in a park, enjoying a nice summer day. You don’t know me, but I walk right up to you holding a Frisbee. I wind up – and throw the disc right into your face. Understandably, you are indignant. Through a bloody nose, you use a few choice words to ask me what the hell I thought I was doing. And my response? “Oh, I didn’t mean to hit you! That was never my intent! I was simply trying to throw the Frisbee to my friend over there!” Visibly upset, you demand an apology. But I refuse. Or worse, I offer an apology that sounds like “I’m sorry your face got in the way of my Frisbee! I never intended to hit you.” Sound absurd? Sound infuriating enough to give me a well-deserved Frisbee upside the head? Yeah. So why is this same thing happening all of the time when it comes to the intersection of our identities and oppressions or privileges? **Intent v. Impact** From Paula Deen to Alec Baldwin to your annoying, bigoted uncle or friend, we hear it over and over again: “I never meant any harm…” “It was never my intent…” “I am not a racist…” “I am not a homophobe…” “I’m not a sexist…” **I cannot tell you how often I’ve seen people attempt to deflect criticism about their oppressive language or actions by making the conversation about their intent. At what point does the “intent” conversation stop mattering so that we can step back and look at impact? After all, in the end, what does the intent of our action really matter if our actions have the impact of furthering the marginalization or oppression of those around us?** In some ways, this is a simple lesson of relationships. If I say something that hurts my partner, it doesn’t much matter whether I intended the statement to mean something else – because my partner is hurting. I need to listen to how my language hurt my partner. I need to apologize. And then I need to reflect and empathize to the best of my ability so I don’t do it again. But **when we’re dealing with the ways in which our identities intersect with those around us – and, in turn, the ways our privileges and our experiences of marginalization and oppression intersect – this lesson becomes something much larger and more profound.** This becomes **a lesson of justice.** What we need to realize is that **when it comes to people’s lives and identities, the impact of our actions can be profound and wide-reaching. And that’s far more important than the question of our intent. We need to ask ourselves what might be or might have been the impact of our actions or words. And we need to step back and listen when we are being told that the impact of our actions is out of step with our intents** or our perceptions of self. Identity Privilege and Intent For people of identity privilege, this is where listening becomes vitally important, for **our privilege can often shield us from understanding the impact of our actions.** After all, as a person of privilege, **I can never fully understand the ways in which oppressive acts or language impact those around me**. What I surely can do is listen with every intent to understand, and I can work to change my behavior. Because **what we need to understand is that making the conversation about intent is inherently a privileged action.** The reason? **It ensures that you and your identity (and intent) stay at the center of any conversation and action while the impact of your action or words on those around you is marginalized.** So if someone ever tells you to “check your privilege,” what they may very well mean is: “**Stop centering your experience and identity in the conversation by making this about the intent of your actions instead of their impact**.” That is: Not everything is about you. “What They Did” vs. “What They Are” The incredible Ill Doctrine puts it well when he explains the difference between the “What They Did” conversation and the “What They Are” conversation, which you can watch here. In essence, the “intent” conversation is one about “what they are.” Because if someone intended their action to be hurtful and racist/sexist/transphobic/pickyourpoison, then they must inherently be racist/sexist/transphobic/pickyourpoison. On the other hand, **the “impact” conversation** is one about “what they did.” For you, it **takes the person who said or did the hurtful thing out of the center and places the person who was hurt in the center. It ensures that the conversation is about how “what they did” hurts other people and further marginalizes or oppresses people.** And it’s important for people to understand the difference. Just because you did something sexist doesn’t mean that you are sexist. Just because you said something racist doesn’t mean that you are racist. When your actions are called into question, it’s important to recognize that that’s all that is being called into question – your actions, not your overall character. Listen. Reflect. Apologize. Do Better. It doesn’t matter whether we, deep down, believe ourselves to be \_\_\_\_\_\_\_\_\_\_-ist or whether we intended our actions to be hurtful or \_\_\_\_\_\_\_\_\_-ist. It.Doesn’t.Matter. If the impact of our actions is the furthering of oppression, then that’s all that matters. So we need to listen, reflect, apologize, and work to do better in the future. What does that look like? Well, to start, we can actually apologize. I don’t know about you, but I am sick of hearing the ““I am sorry your face got in the way of my Frisbee! I never intended to hit you” apologies. Whether it’s Paula Deen weeping on TV or Alec Baldwin asking us to simply trust that he’s not a “homophobe,” those are not apologies. That’s why I was incredibly inspired and relieved to see a major organization do it well when Kickstarter apologized and took full responsibility for their role in funding a creepy, rapey seduction guide. They apologized earnestly and accepted the role they played in something really terrible. hey pledged to never allow projects like this one to be funded in the future. And then they donated $25,000 to RAINN. At the interpersonal level, we can take a cue from Kickstarter. **When we are told that the impact of our action, inaction, or words is hurtful and furthers oppression, we can start by apologizing without any caveats. From there, we can spend the time to reflect in hopes of gaining at least some understanding (however marginal) of the harmful impact. And we can do our best to move forward by acting more accountably**.

#### Any ethical theory that creates moral rules without taking into account the real world context fails—starts from a flawed epistemological standpoint

Mills ’09 (Charles W. "Rawls on Race/Race in Rawls." The southern journal of philosophy 47.S1, 2009, 161-184)

Now how can this ideal ideal—a society not merely without a past history of racism but without races themselves—serve to adjudicate the merits of competing policies aimed at correcting for a long history of white supremacy manifest in Native American expropriation, African slavery, residential and educational segregation, large differentials in income and huge differentials in wealth, nonwhite underrepresentation in high-prestige occupations and overrepresentation in the prison system, contested national narratives and cultural representations, widespread white evasion and bad faith on issues of their racial privilege, and a corresponding hostile white backlash against (what remains of) those mild corrective measures already implemented?Obviously, it cannot. As Thomas Nagel concedes: “**Ideal theory enables you to say when a society is unjust, because [when] it falls short of the ideal. But it does not tell you what to do if, as** is **almost always** the case, **you find yourself in an unjust society, and want [how] to correct that injustice[.]”** (2003a, 82). Ideal theory represents an unattainable target that would require us to roll back the clock and start over. **So** in a sense **it is an ideal with** little or **no practical worth. What is required is the nonideal** (rectificatory) ideal **that starts from** the **reality** of these injustices **and then seeks some** fair **means of correcting for them[.]**, recognizing that in most cases the original prediscrimination situation (even if it can be intelligibly characterized and stipulated) cannot be restored. **Trying to rectify systemic black disadvantage through affirmative action is not the equivalent of not discriminating[.]** against blacks, especially when there are no blacks to be discriminated against. Far from being indispensable to the elaboration of non- ideal theory, ideal theory would have been revealed to be largely useless for it. **But** the situation is worse than that. As the example just given illustrates, **it is not merely a matter of an ideal with problems of** operationalization and **relevance, but of an ideal likely to lend itself** more readily **to retrograde** political **agendas. If the ideal ideal** rather than the rectificatory ideal **is to guide us, then a world without races** and any kind of distinction- drawing by race **may seem to be** an **attractive[.]** goal. **One takes the ideal[,]** to be colorblind nondiscrimination, as appropriate for a society beginning from the state of nature, and then—**completely ignoring the nonideal history that has given whites a systemic** illicit **advantage [and]** over people of color—**conflates** together **as “discrimination”** all **attempts to draw racial distinctions[.]** for public policy goals, no matter what their motivation, on the grounds that this perpetuates race and invidious differential treatment by race. In the magisterial judgment of Chief Justice John Roberts in the June 2007 Supreme Court decision on the Seattle and Louisville cases where schools were using race as a factor to maintain diversity, “The way to stop discrimination on the basis of race is to stop discriminating on the basis of race,”6 a statement achieving the remarkable feat of depicting not merely as true, but as *tautologically* true, the equating of Jim Crow segregation and the attempt to remedy Jim Crow segregation! **[So] What is ideally called for under ideal circumstances is not**, or at least is not necessarily, **what is ideally called for under nonideal circumstances.** Claiming that all we need to do is to cease (what is here characterized as) discrimination ignores the differential advantages and privileges that have accumulated in the white population because of the past history of discrimination. **So** the defense in terms of ideal theory is doubly problematic. In the **first[,]** place, **ideal theory was never supposed to be an end in itself, but a means to improving our handling of nonideal matters,** and the fact that Rawls and his disciples and commen- tators have for the most part stayed in the realm of the ideal represents an evasion of the imperative of dealing with what were supposed to be the really pressing issues. **And** in the **second** place, **it is questionable** in any case **how useful the [abstract] ideal ideal in the Rawlsian sense** is or **ever would have been[.]** in assisting this task. So it is not merely that ideal theory has not come to the aid of those dealing with nonideal injustice but that it was unlikely to have been of much help when and if it ever did arrive.

#### Their form of philosophy is hyper-methodological—real philosophical debate revolves around intuitive ethical harms such as racism

Davis et al ‘13 [Jacob Nebel (badass mofo), Ryan W. Davis (PHD in philosophy) Peter van Elswyk (PHD Philosophy) Ben Holguin (PHD in phil), “Teaching Philosophy through Lincoln-Douglas Debate,” Teaching Philosophy 36:3, September 2013]

The dominant view in LD debate about philosophical methodology is very different from the methodology of academic philosophy. As dis-cussed in Section 1, a typical LD debate case first argues for a moral framework through which the debater evaluates the resolution. The moral principle that [is] she applie[d]s to the topic is called the value criterion. Common criteria include maximizing total well-being, respecting persons as ends in themselves, preventing undeserved suffering, and minimizing inequality. Interestingly, the LD debate community has uncritically taken sides on the philosophical problem of the criterion. As Chisholm (1973) presents it, we face two questions. The first question asks for the general criteria for a concept: in epistemology, how we know; in ethics, the features that make acts right. The second questions asks for particular applications of a concept: in epistemology, what we know in ethics, which acts are right. The problem of the criterion is that an answer to the first question seems to require an answer to the second, and an answer to the second question seems to require an answer to the first. Howphilosophers should proceed is an important question of philosophical methodology. Chishom’s Methodists begin with general principles and criteria, whereas his particularists begin with [or] particular judgments and cases. Thomas Kelly (2005) views this division as a continuum, with reflective equilibrium in the middle. The LD debate community is on the hyper-methodist end of the spectrum. Even reflective equilibrium would seem suspicious to many debaters and judges. As discussed in Section 2.2, debaters and judges are highly skeptical of intuition. But they have a narrow understand-ing of what an intuition is. In particular, the LD debate community uses the word “intuition” broadly to pick out moral judgments about particular cases, but not any other philosophical principles. According to the conventional wisdom in LD debate, abstract principles are to be trusted over intuitive judgments. For example, one prized strategy in LD debate is the use of metaethics to derive first-order moral judgments. Many debaters not only assume that normative ethics is impossible without first doing metaethics; they also assume that any metaethical argument trumps any normative argument to the contrary. A common practice in rebuttals is to defend some metaethical justification for one’s ethical theory and then concede all the non-metaethical arguments for the opponent’s ethical theory. This saves time and exploits LD de-bate’s bizarre norms regarding argument priority because for any given ethical theory, no matter the number of counterexamples, proceduralobjections, or generic arguments against it, that theory wins so longas it is derived from a metaethical view while its competitors are not. We believe LD debaters and coaches tend to hold this view because first, they think it would be unfair for the judge’s intuitions to playa significant role in the debate; and second, because they think that abstract principles are on firmer philosophical footing than particular judgments. One consequence [which causes] of this view is thatdebaters tend to argue for extreme moral views, no matter how absurd they seem. A philosopher would respond to these views with counterexamples, but counterexamples are not dialectically effective in LD debate, primarily for a reason mentioned earlier in the paper: biting the bullet is almost always the most strategic option. Most judges will not penalize a debater who says, for example, that it would be wrong to violate someone’s property rights to prevent human extinction, or that the surgeon should kill an innocent person and distribute his organs to five other patients, or even that the Holocaust wasn’t morally wrong if the debater in question is defending moral nihilism.

#### Evaluating abstract philosophies before issues of oppression is nonsensical – it’s just a way to avoid confronting oppression

Matsuda ‘89 [Mari, Associate Professor of Law @ the University of Hawaii, “When the First Quail Calls: Multiple Consciousness as Jurisprudential Method”, 11 Women's Rts. L. Rep. 7 1989] PO

The multiple consciousness I urge lawyers to attain is not a random ability to see all points of view, but a deliberate choice to see the world from the standpoint of the oppressed. That world is accessible to all of us. We should know it in its concrete particulars. We should know of our sister carrying buckets of water up five flights of stairs in a welfare hotel, our sister trembling at 3 a.m. in a shelter for battered women, our sisters holding bloodied children in their arms in Cape Town, on the West Bank, and in Nicaragua. The jurisprudence of outsiders teaches that these details and the emotions they evoke are relevant and important as we set out on the road to justice. These details are accessible to all of us, of all genders and colors. We can choose to know the lives of others by reading, studying, listening, and venturing into different places. For lawyers, our pro bono work may be the most effective means of acquiring a broader consciousness of oppression. Abstraction and detachment are ways out of the discomfort of direct confrontation with the ugliness of oppression. Abstraction, criticized by both feminists and scholars of color, is the, method that allows theorists to discuss liberty, property, and rights in the aspirational mode of liberalism with no connection to what those concepts mean in real people's lives. Much in our mainstream intellectual training values abstraction and denigrates nitty-gritty detail. Holding on to a multiple consciousness will allow us to operate both within the abstractions of standard jurisprudential discourse, and within the details of our own special knowledge. Whisperings at Yale and elsewhere about how deconstructionist heroes were closet fascists remind me of how important it is to stay close to oppressed communities. High talk about language, meaning, sign, process, and law can mask racist and sexist ugliness if we never stop to ask: "Exactly what are you talking about and what is the implication of what you are saying for my sis- ter who is carrying buckets of water up five flights of stairs in a welfare hotel? What do you propose to do for her today, not in some abstract future you are creating in your mind?" If you have been made to feel, as I have, that such inquiry is theoretically unsophisticated, and quaintly naive, resist! Read what Professor Williams, Professor Scales-Trent, and other feminists and people of color are writing.' The reality and detail of oppression are a starting point for these writers as they enter into mainstream debates about law and theory.

# 1AC Sovlency

## Country Examples

### Britain

#### British policy proves that leaving citizens without the ability of self-defense causes massive increases in crime rate

Joyce Lee Malcolm explains in “The Cato Policy Report” [April 2004 <http://www.cato.org/pubs/policy_report/v26n2/cpr-26n2-1.pdf>]

The withdrawal of a basic right of Englishmen is having dire consequences in Great Britain, and should serve as an object lesson for Americans. Today, in the name of public safety, the British government has practically eliminated the citizens’ right to self-defense. That did not happen all at once. The people were weaned from their fundamental right to protect themselves through a series of policies implemented over some 80 years. Those include the strictest gun regulations of any democracy, legislation that makes it illegal for individuals to carry any article that could be used for personal protection, and restrictive limits on the use of force in self-defense. Britons have been taught, in the words of a 1992 Economist article, that such policies are “a restraint on personal liberty that seems, in most civilized countries, essential to the happiness of others.” The author contrasted those policies with “America’s vigilante values.” Millions of people in Britain live in fear. Elderly people are afraid to go out and afraid to stay in. The government has insisted upon a monopoly on the use of force—but it can only enforce that monopoly against the law abiding. By practically eliminating self-defense, it has removed the greatest deterrent to crime, people are not able or prepared to defend themselves. Peter Hitchens, a British columnist, recently pointed out, “In Britain now we have the worst of both worlds, police who can’t or won’t protect us, and no right to protect ourselves.” He blames the change on indulgent lawyers, judges, civil servants, and juries. They have certainly played an important part. But they were empowered by legal changes that permitted the government to remove the most basic of all rights. It is unclear why the British people tolerated this. Perhaps it was because the 1953 act that removed the right to carry anything for protection, on the promise that society would protect everyone, came in the wake of new government programs for cradle-to-grave welfare, national health insurance, and government housing. To many people, and to the government itself, personal protection must have seemed like just one more area where the state could handle things for the individual. From the government’s point of view, there was no need to run the risk of people causing trouble by trying to defend themselves. The professionals would handle it. Of course there is no way “society” can protect everyone all of the time. And the government has always known that. The safety of individual citizens has taken a back seat to the political preference for order and power. The result would not have surprised Blackstone. And it should be a lesson to Americans. The impact of such policies on public safety has been stark. An amazing trend of nearly 500 years of declining interpersonal violence in England reversed abruptly in 1954 as violence began to increase dramatically. In 2001 Britain had the highest level of homicides in Western Europe, and violent crimes were at three times the level of the next worst country. “One thing which no amount of statistical manipulation can disguise,” the shadow home secretary, Oliver Letwin, pointed out in October 2003, “is that violent crime has doubled in the last six years and continues to rise alarmingly.” Indeed, with the exception of murder, violent crime in England and Wales is far higher than in the United States. And while the American murder rate has been in decline for more than a decade, the English murder rate has been rising. You are six times more likely to be mugged in London than in New York City. More than half of English burglaries are “hot burglaries”(someone is at home), while in America, where burglars admit to fearing armed homeowners more than the police, only 13 percent are “hot burglaries.” As for the effectiveness of stringent gun control, since handguns were banned in 1998, handgun crime has more than doubled. Gun crime has recently been described as spreading “like a cancer.” Units of British police are, for the first time in their history, routinely armed, and American policemen are being hired to advise British departments

### D.C

#### US specific warrants – DC increased murder

Kopel 93 David B. (Director of the Firearms Research Project at the Independence Institute, a Denver, Colorado think-tank. He also serves as an Associate Policy Analyst with the Cato Institute in Washington, D.C., and as a techincal consultant to the International Wound Ballistics Association. J.D. 1985, University of Michigan Law School; B.A. Brown University, 1982. Kopel's book, THE SAMURAI, THE MOUNTIE AND THE COWBOY: SHOULD AMERICA ADOPT THE GUN CONTROLS OF OTHER DEMOCRACIES? was awarded the Comparative Criminology Prize by the American Society of Criminology's Division of International Criminology) “PERIL OR PROTECTION? THE RISKS AND BENEFITS OF HANDGUN PROHIBITION” Saint Louis University Public Law Review Volume 12, 1993 http://www.constitution.org/2ll/2ndschol/63perilo.htm JW

Even if Dixon's explanation about leakage is generally true, it remains difficult to account for the dismal performance of many gun controls. For example, in 1976 the Washington, D.C. murder rate stood at 26.9 per 100,000 population, according to FBI statistics. The city council enacted a handgun ban which went into effect in February \*316 1977, and since then the Washington rate has always been higher than 26.9 (except in 1985). [[117](http://i2i.org/SuptDocs/IssuPprs/lrstlupl.htm#117)] Today, the rate is three times higher than it was before the ban was enacted. [[118](http://i2i.org/SuptDocs/IssuPprs/lrstlupl.htm#118)] If handgun bans work, why would the homicide rate rise after 1977 (which was years before the "war on drugs" made Washington's homicide problem even worse)? Smuggling guns into Washington, D.C. from other states was no easier in 1980 than it was in 1976. The ban on possession by law-abiding citizens should have reduced the supply of handguns available for Washington, D.C. criminals to steal, and should have prevented law-abiding citizens from shooting each other with handguns in heat-of-passion homicides. The D.C. handgun ban's impact on law-abiding citizens would not be defeated by interstate smuggling, since law- abiding citizens would, be definition, not buy an illegal gun. And yet the Washington homicide rate rose. Similar increases in gun crime in other jurisdictions, such as Chicago after its own handgun ban, [[119](http://i2i.org/SuptDocs/IssuPprs/lrstlupl.htm#119)] and New York City after its severe "Sullivan" handgun licensing law, [[120](http://i2i.org/SuptDocs/IssuPprs/lrstlupl.htm#120)] at least raise doubt about the complete sufficiency of interstate gun smuggling as an explanation for the failure of the gun laws. If interstate smuggling were the whole story, then it would not be expected that crime rates would rise immediately after gun laws were enacted.

## 1NC Spread

### Illicit market

#### It’s totally possible.

Jacobs ‘02: James B. Jacobs, Chief Justice Warren E. Burger Professor of Constitutional Law and the Courts Director, Center for Research in Crime and Justice @ NYU Law, “Can Gun Control Work?” 2002. Can Gun Control Work? James B. Jacobs OXFORD UNIVERSITY PRESS

Closing down legitimate manufacturers would be a boon to black market producers. Clandestine handgun manufacturers would spring up, just as thousands of illegal stills operated during alcohol prohibition, and hundreds or thousands of clandestine labs now produce unlawful mood and mind-altering drugs like amphetamine and ecstasy. Even today, "zip guns" are produced or assembled in small workshops within the United States.\* These black market manufacturers, already illegal, operate outside any regulatory scheme for recordkeeping, serial numbers, safety locks, or taxation. Implementing a prohibition on importation of handguns would be even more difficult. Without (or with sharply diminished) domestic U.S. sources for new handguns, there would be a greater economic incentive for smugglers to bring in handguns from abroad. Is there any reason to believe that customs officials and other law enforcement personnel would be more successful in preventing handgun smuggling than in preventing drug smuggling? I think not. Contraband handguns, like illicit drugs, would enter the country illegally in seaborne containers, trucks, cars, planes, and by mail. (Currently, there are firearms black markets in West-ern Europe, where handguns smuggled from Eastern Europe and the former Soviet Union are easily obtainable in Amsterdam, Brussels, and other cities.)"

### CDC

#### CDC and National Academy of Sciences reviewed entire lit base and conclude neg – *prefer as its impartial*

Beard et al. 13: Alice Marie Beard, Kates, and Don B. "Murder, Self-Defense, and the Right to Arms." Connecticut Law Review 45.5 (2013). <http://connecticutlawreview.org/files/2013/10/11-Kates-Beard.pdf>

In 2004, the National Academy of Sciences studied gun control, reviewing 253 journal articles, 99 books, 43 government publications, and some empirical research of its own about gun crime.24 The Academy could not identify any gun restriction that reduced violent crime, suicide, or gun accidents.25 A year earlier, the [CDC] Centers for Disease Control and Prevention (“CDC”), which endorses banning handguns and severely restricting other guns, released an exhaustive review of all extant literature. The CDC likewise could not identify any gun control measure that had reduced murder, violent crime, suicide, or gun accidents.26 A. The Myth of Police Protection

#### Substitution effect

Kopel 92 David B. (Director of the Firearms Research Project at the Independence Institute, a Denver, Colorado think-tank. He also serves as an Associate Policy Analyst with the Cato Institute in Washington, D.C., and as a techincal consultant to the International Wound Ballistics Association. J.D. 1985, University of Michigan Law School; B.A. Brown University, 1982. Kopel's book, THE SAMURAI, THE MOUNTIE AND THE COWBOY: SHOULD AMERICA ADOPT THE GUN CONTROLS OF OTHER DEMOCRACIES? was awarded the Comparative Criminology Prize by the American Society of Criminology's Division of International Criminology) “Banning Handguns?” Washington Post http://www.davekopel.org/2A/OpEds/OpEdBanGun.htm FT

If the Chafee bill succeeds at wiping out the American handgun supply, thousands of additional people will die of gunshot wounds every year. The reason for this counterintuitive result? The Chafee bill eliminates handguns, but leaves long guns -- which are much deadlier -- uncontrolled. Most people who are shot with handguns survive, and most people who are shot with shotguns die. As the Annals of Surgery put it: "Shotgun injuries have not been compared with other bullet wounds of the abdomen as they are a thing apart...[A]t close range, they are as deadly as a cannon." From a criminal's point of view, a sawed-off long gun is a good substitute for a handgun. In five minutes a criminal can hacksaw a rifle or a shotgun down to an 11 inch length; the new weapon is about as concealable as a 12 inch TEC-9 pistol or a 9 inch Ruger revolver -- and much more lethal. According to a National Institute of Justice survey of felony prisoners, 75% of the "handgun predators" (those who specialized in handgun crime) said that if handguns became unavailable, they would switch to sawed-off shoulder weapons. Even if only a third of criminals switched from handguns to long guns, fatalities would still increase sharply. Unlike street criminals, persons who own guns at home do not care about concealability, and thus would be especially likely to buy long guns if handgun were illegal. Most people fearful enough to think they need a loaded handgun for protection would not give up the idea of armed defense simply because one type of gun became unavailable. As long guns supplanted handguns in the home, the death rate from domestic shootings, firearms suicides, and firearms accidents would skyrocket. Even if the actual number of shootings fell somewhat, the net fatality rate would still rise, because each shooting would carry a larger risk of death.

### No Enforcement

#### Federal bans wouldn’t solve – states can’t and won’t enforce or causes backlash

Vizzard 15 William J. Vizzard, The Current And Future State Of Gun Policy In The United States, 104 J. Crim. L. & Criminology 879 (2015). <http://scholarlycommons.law.northwestern.edu/jclc/vol104/iss4/5> IM

Unfortunately, any permit and licensing system faces numerous practical, political, and legal hurdles. The sheer size of the existing firearms inventory and the number of gun owners constitute two of the greatest hurdles. Although the exact number of firearms cannot be determined, the best estimate is somewhere over 300 million and growing.113 The number of gun owners proves equally ambiguous, but may well approach 100 million.114 Any effort to register this many firearms in the possession of so many individuals presents a formidable task both practically and politically. Other than the Internal Revenue Service and the Social Security Administration, the federal government lacks any agency with the infrastructure and experience to handle such a task, but this function does not fit with the existing role or culture of either agency. In addition, both agencies seem stretched to their limit with their current functions. The task could be simplified if the states took on the primary responsibility and the federal government provided a central repository of information. State motor vehicle departments have both the type of experience and infrastructure that would be required, although not the resources. The federal government has succeeded in convincing state legislatures to insert uniform standards into state law in areas such as auto safety, drinking age, environmental regulation, and educational testing. However, recent state resistance to support for universal health care and the establishment of state exchanges demonstrates a very different political environment than that of past years. Given the pattern of actions in many states on concealed carry and efforts by some states to block enforcement of existing federal firearms laws, cooperation seems highly unlikely in a majority of states. Any federal effort to mandate state action would face a constitutional challenge invoking the Printz precedent.

#### Here’s proof

Vainik 06 Vainik, Jennifer L.[ J.D. Candidate 2008, University of Minnesota Law School; B.A. 2002, Northwestern] "Kiss, Kiss, Bang, Bang: How Current Approaches to Guns and Domestic Violence Fail to Save Women's Lives." *Minn. L. Rev.* 91 (2006): 1113. IM

**While the federal disarmament laws were enacted to ameliorate the inadequacies of the state laws, the federal gun bans also fail to achieve their goal. The federal bans are severely underenforced, enabling batterers to continue to possess guns.** From 2000 to 2002, 630 suspects were referred to U.S. Attorneys for violations of a firearms-related domestic offense, representing just three percent of the 18,653 federal suspects referred for alleged violent crimes. 140 This is a small fraction of the number of cases that can be prosecuted. Judge Posner of the Court of Appeals for the Seventh Circuit estimates that approximately **forty thousand people violate the gun bans each year by possessing firearms while subject to a protection order.**141 A much smaller percentage of suspects are actually convicted. 142 The federal time and money spent on enforcing weapons offenses is not commensurate to the scope of the problem. Additionally, Congress undermines the unique, national representative capacity of federal law. 194

#### Gun bans are virtually impossible – states lack infrastructure

Vainik 06 Vainik, Jennifer L.[ J.D. Candidate 2008, University of Minnesota Law School; B.A. 2002, Northwestern] "Kiss, Kiss, Bang, Bang: How Current Approaches to Guns and Domestic Violence Fail to Save Women's Lives." *Minn. L. Rev.* 91 (2006): 1113. IM  
In states that do have such laws, **conditions and qualifications reduce the likelihood of disarming batterers. For instance, a judge might decide that the gun removal provision "is not important" and refuse to impose the ban**.132 **If the batterer did not use the gun in the domestic violence incident, he might legally be able to continue to possess guns or purchase new ones.** 133 In many cases, the batterer may only be disarmed for a couple of days, 134 and, in states where the abuser must turn in his guns, he might simply refuse to comply. 135 **Even if states can legally disarm a batterer, many states lack the bureaucratic and physical infrastructure to actually remove the guns. Many states do not have gun repositories where the guns can be stored. 136 Nor do they have the extra law enforcement officers necessary to confiscate the weapons, catalogue them, store them in the repository, and return them once an order for protection terminates or a misdemeanant's record is expunged. 137 Some states have no system in place to inform victims, abusers, employers, and police officers of the gun bans.** 13s Other states do not have a common database wherein they may flag the abuser as a "prohibited person."' 39Thus, gun dealers and police may not know whether an individual can or cannot possess or purchase a **gun.**

## Substitution Effect

#### Substitution effect – handgun ban would drastically increase homicides.

Kopel: Kopel, David B. Research Director, Independence Institute. “Peril or Protection: The Risks and Benefits of Handgun Prohibition” Saint Louis University Public Law Review, Volume 12. 1993. FT

If handguns were somehow removed from the hands of malfeasants, would the death toll actually increase? Some gun misusers would switch to knives (not much less deadly than small handguns), while others would switch to rifles and shotguns (much more likely to kill than handguns). If enough misusers switched from handguns to long guns, the death toll might therefore increase, or so the "substitution argument" goes. Dixon confronts the substitution argument carefully, and provides one of the most comprehensive critiques of substitution theory ever offered by a handgun prohibitionist. \*327 Dixon is right to take the substitution argument seriously. While handgun wounds are usually survivable, especially if the victim gets medical attention quickly, shotgun blasts at close range are much more likely to be fatal. The shotgun fires a large slug, or from six to more than sixty pellets, with one trigger squeeze. A single shotgun pellet, because it may be of a diameter equal to a small handgun bullet, can inflict nearly as much damage as a small handgun bullet. [177] Wound ballistics and firearms experts concur that at short range, a shotgun is by far the deadliest weapon. [178] Anti-prohibition writers such as David Hardy, Gary Kleck, and Don Kates have argued that a high level of substitution of long guns for handguns would occur in the case of a hypothetical American handgun ban. Dixon offers a careful rebuttal of their arguments, and concludes that (since he has placed the burden of proof on prohibition opponents) the case for a substitution effect has not been proven convincingly enough to overcome what he considers the strong evidence for handgun prohibition. Overlooked in the discussion of a substitution effect resulting from a hypothetical American handgun ban is non- hypothetical evidence from other countries. As Dixon showed earlier in his article, countries with more handguns per capita tend to have more handgun homicides per capita. [179] Switzerland, which has, by world standards, relatively lenient handgun laws, has more handgun homicides per capita than countries where handgun laws are tougher. [180] From the handgun density/handgun homicide correlation in Switzerland and other nations (as well as from other evidence detailed supra), Dixon concludes that handgun density strictly correlates with handgun homicide. [181] Let us \*328 assume that Dixon is right. In countries such as Australia and Canada, where handgun laws are much stricter than in Switzerland, the handgun homicide rate is lower than in Switzerland, but the total homicide rate is over 100 percent greater. [182] The reason cannot be that Australians and Canadians are more prone to want to kill somebody than the Swiss are - Dixon has explicitly assumed that human nature in developed countries is roughly similar everywhere. [183] So why then do Canada and Australia have more murders, even though they have stricter handgun laws, and fewer handgun murders? One plausible explanation is the substitution effect. A sufficiently large number of Australians and Canadians, unable to obtain handguns, do their shooting with rifles or shotguns; their victims die, whereas if they had been shot with handguns, many would have survived. Although some Australian and Canadian assailants, unable to obtain handguns, switched to less deadly weapons (such as clubs), the number of assailants who switched to rifles and shotguns was sufficiently large to increase the overall death toll. If we have plausible evidence to suggest that a substitution effect may have occurred in Australia and Canada, could a similar effect occur in the United States? [184] \*329 Dixon quotes research developed by Don Kates and Mark Benenson that if 30% of persons attempting homicide switched from handguns to long guns, while the other 70% switched to knives, total homicide would increase substantially. If 50% switched to long guns, the homicide rate could double, even if none of the persons switching to knives killed anyone. [185] A National Institute of Justice study of felons in state prisons found that 72% of the handgun criminals said they would switch to sawed-off shotguns if handguns became unavailable. [186] A 72% substitution rate would lead to an enormous multiplication of the current homicide rate, and Kleck expects that substitution would occur at about 70%.

#### A2: Dixon

Kopel: Kopel, David B. Research Director, Independence Institute. “Peril or Protection: The Risks and Benefits of Handgun Prohibition” Saint Louis University Public Law Review, Volume 12. 1993. FT

Dixon retorts that criminals are apt to be braggarts and liars, and might claim that nothing, including a handgun ban, could stop them from committing any crime they chose. Accordingly, the 72% substitution figure might be too high. True enough. But at the same time, at least some criminals may be highly suspicious and mistrustful of authority. Although the National Institute of Justice polling, conducted through written response to written questions, offered the respondents anonymity, some of the prisoners might have believed that their responses would not in fact be anonymous; the polling might be a "setup" to discern their plans after release, and provide a reason for denying parole. Thus, some handgun criminals might have falsely said that they would not substitute sawed-off shotguns for unavailable handguns. Do the number of braggart criminals who falsely said that they would use sawed-off shotguns outnumber the number of mistrustful criminals who falsely said they would not? It is difficult to say with certainty. But since 72% of the criminals said they would substitute, and since only 30% substitution is needed to increase substantially the homicide rate, there is a wide margin for error to assume that bragging criminals outnumber suspicious ones.

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Dixon critiques the Benenson and Kates estimate of a homicide rate increase because Benenson and Kates assumed that handgun users who did not switch to long guns would switch "downward" to the next most deadly weapon, knives. Almost certainly, some handgun users would, rather than using knives, turn to even less deadly weapons, such as fists, or would not attempt murder in the first place, absent a handgun. [187] But when calculating expected deaths resulting from substitution, Kates and Benenson assumed that none of the persons who switched to knives would kill anyone; in terms of resulting deaths, therefore, Kates and Benenson underestimated the \*330 deaths that would be caused by murderers who switched downward to less lethal weapons. Even assuming that none of the persons who switched down killed anyone, the homicide rate would double if half of the handgun-deprived criminals switched "up" to long guns. [188]

Another tack taken by Dixon is to argue that high rates of substitution are unlikely because long guns are so inferior for most criminal purposes. He notes first of all that less than 10% of murders are currently perpetrated with long guns. [189] This is true, but, as Dixon strenuously argues, handguns are widely preferred as murder weapons, and widely available. Thus, it should not be surprising that more than 6 out of 7 gun murderers chose the "best" tool, a handgun. But what people choose when the "best" option is available does not prove how they would behave if only inferior options were available. Today, virtually all hard liquor drinkers consume the "best" hard liquor available - namely legally-produced hard liquor whose production is regulated by the government to guarantee standards of safety. Probably less than 5% of American hard liquor consumers drink bathtub gin, moonshine, and other home- brewed liquors whose safety cannot be guaranteed. Does the fact prove that very few liquor drinkers would, if legal liquor became unavailable, substitute home-brewed liquor? To the contrary, the experience of alcohol prohibition showed that a large percentage of liquor consumers, if unable to obtain safe, legal liquor, will switch to inferior, dangerous homemade liquor. [190] That murderers only rarely use long guns today does not prove that murders would eschew long guns if handguns were unavailable, any more than drinkers of legal liquor would eschew bathtub gin. [191]

As another argument against substitution, Dixon points out that long guns are less concealable than handguns. Even when sawed off, a shotgun is still about 11 inches long, making it slightly larger than big handguns, and much larger than the small, low-caliber handguns which are frequently used in crime.

Would sawed-off shotguns frequently be substituted in a \*331 robberies? Putting an 11 inch shotgun in one's front pocket would not be very effective concealment. On the other hand, sticking the shotgun in the inner pocket of a large coat or jacket would seem reasonably effective. Accordingly, it is plausible to infer that persons who execute planned robberies would substitute concealed shotguns. At the same time, criminals who simply carried handguns with them, and spontaneously perpetrated robberies when the opportunity arose, might not be able to carry concealed shotguns so frequently. Thus, impulsive handgun robberies would suffer less of a substitution effect than would planned robberies. Since casual carrying of firearms in general might decrease, so might the shootings that result from the casual insults and provocations that can occur on the street. Hence, it is reasonable to conclude that an effective handgun ban might prevent some shootings. But again, only a 30% substitution rate would be necessary for total homicides to rise substantially.

What about in the home? It is the home, after all, rather than in robberies of stores, where the larger number of handgun homicides currently occur. Dixon argues that even in the home, the concealability of handguns is important. He asserts that substantial portion of the murders in 1989 involved "friends or acquaintances who may have been unaware that the person they are visiting is carrying a concealed weapon." [192] First of all, there is no evidence as to how many of those murderers actually were carrying a concealed weapon of which the victim was unaware. For the sake of argument, assume that all of the murders would have been prevented had handguns not been available; there is still a long way to go for the substitution ratio to be reduced below 30%, and thus not cause a net increase in homicides.

Next, Dixon writes that "the ease of pulling out the [hand]gun and shooting makes such arguments far more likely to spill over into murder. In contrast, by the time the assaulter has gone into another room to retrieve their [sic] long gun and loaded it, the potential victim has crucial seconds in which to escape." [193] Here, Dixon assumes that the domestic handgun murderers were carrying the handgun on their body, rather than storing the handgun in another room. He likewise assumes that the substituted long gun would be stored in "another room" rather than the room in which the argument was taking place. He further assumes that the handguns used in the domestic shootings were loaded, but the substituted long guns would not be loaded. All of these assumptions may be simultaneously true some of the time, thus making Dixon's escape scenario plausible in \*332 some instances. (Although not every potential victim would know that the potential murderer was loading a long gun in the other room, and even then, some might not run away.) [194] But it is highly speculative to assume that Dixon's scenario of the unloaded long gun in the other room replacing the loaded handgun carried on the person would be the predominant scenario. Even if we speculatively assume that the unloaded long gun scenario would transpire more than 50% of the time, all that is needed for an increase in the death rate is a 30% substitution rate.

While Dixon argues convincingly that substitution would not be universal, the evidence easily supports the conclusion that substitution of long guns for handguns would occur in at least 30% of current handgun murder situations, thus leading to a substantial increase in total deaths.

#### Prefer this evidence:

#### A. It quantifies TOTAL homicides, not just those from handguns. Authors like Dixon mistakenly just analyze handgun homicides, whereas my evidence shows total homicies go up

#### B. Strength of empirical warrant – U.S. studies confirm

Hardy ’78: Hardy, David T. Professor, William and Mary “Firearm Ownership and Regulations – Tackling Old Problems” William and Mary Law Review, Volume 20, Issue 3. 1978. RP

There is also strong evidence that restrictions on the type of weapon induce substitution with other weapons. Both the CUE and California reports suggest that once their availability is restricted, handguns are exchanged for long-arms,31 7 which can be considerably more deadly.318 The Harvard Gun Project also documents a tendency to shift from firearms to other weapons when the supply of firearms is restricted.319 This shift to other weapons may not be as desirable as previously supposed. When used to threaten or in defense, firearms often are never fired, and, if they are, the result is usually a complete miss or a non-fatal wound.32 0 The California study found no significant difference in fatality rates between robberies accomplished by firearms and those accomplished by other weapons. 31 Despite reductions in firearm carrying and a massive increase in compliance with the Massachusetts law, 2 the Harvard study could find little evidence of a direct impact on crime rates. 33 Murray's study was in accord, finding few statistically demonstrable relationships between firearms use and regulation and homicide rates.34

## Potential Helpful Claims

### 90% are criminal

#### Criminal access turns case – people who commit homicide are almost always past criminals

Beard et al. 13: Alice Marie Beard, Kates, and Don B. "Murder, Self-Defense, and the Right to Arms." Connecticut Law Review 45.5 (2013). <http://connecticutlawreview.org/files/2013/10/11-Kates-Beard.pdf>

Proponents of banning firearms to the general public falsely blame murder on law abiding gun owners. Uniformly they attribute “most shootings” not to felons or mentally ill people, but to ordinary gun owners.6 Likewise, anti-gun activist Amitai Etzioni claims “most homicides are not committed by the ‘hardened’ criminal who would seek out a gun or other lethal weapon, whether or not it was legal, but rather by ordinary, ‘law abiding’ citizens who kill on impulse rather than by intent.”7 This is diametrically contrary to established criminological fact. Professor Elliott’s characterization of murderers as felons and mentally ill individuals is based on murder studies from the nineteenth century to 1997, and more recent data agree that murderers are extremely aberrant individuals whose [with] prior felonies preclude their legally having guns. For example, a New York Times summary of 1,662 murders in New York from 2003 to 2005 reported that “[m]ore than 90 percent of the killers had criminal records.”8 Furthermore, according to a Massachusetts Kennedy School study, “[s]ome 95% of homicide offenders . . . were arraigned at least once in Massachusetts courts before they [murdered]”, and [o]n average . . . homicide offenders had been arraigned for 9 prior offenses.”9 The 2009 article by Don Kates and Clayton Cramer, Second Amendment Limitations Criminological Considerations, collected studies with identical results for Illinois, Milwaukee, Baltimore, and Atlanta.10 In the [D.C]istrict of Columbia—which banned handguns in 1976, thereafter attaining one of America’s highest murder rates11—Kristopher Baumann, Chairman of the Fraternal Order of Police, said in 2010: “[There is no] . . . record of a registered gun having been used in the commission of a crime. The problem is not individuals who legally own guns; the problem is criminals . . . .”12

# Uniqueness CPs

## Manufacturing CP

#### Counterplan text: [AFF ACTOR] ought to ban the manufacture of handguns in the United States.

#### Solves the case and is more implementable

Jacobs ’02(James B. Jacobs, Chief Justice Warren E. Burger Professor of Constitutional Law and the Courts Director, Center for Research in Crime and Justice @ NYU Law, “Can Gun Control Work?” 2002. Can Gun Control Work?James B. Jacobs OXFORD UNIVERSITY PRESS)

Prohibition proposals come in different styles and sizes. Prohibiting **manufacture of handguns would be the easiest** form of prohibition to imple- ment and enforce. The Census of Manufacturers for 1997 shows that there were one hundred and ninety-one small arms manufacturing companies with combined sales of $1.2 billion. The locations of these manufacturers are known. **The federal government could order them shut down**, **subject them to prohibitive taxation** (“tax them to death”), **or expose them to ruinous tort liability**. Their decommission would be easy to monitor. Of course, the government would need to permit at least one private company to continue producing enough handguns for the police and whatever other groups would still be lawfully armed. Alternatively, the government could set up its own handgun manufacturing plant to supply the legitimate market.\*

#### Solves better – prohibition proves your enforcement would fail

Jacobs 04 James (Chief Justice Warren E. Burger Professor of Constitutional Law and the Courts Director, Center for Research in Crime and Justice New York University School of Law) Can Gun Control Work? “Prohibition and Disarmament” 2004 Oxford Scholarship Online

Who would enforce handgun disarmament and with what degree of vigor? National Alcohol Prohibition was enforced by a small number of U.S. Treasury Department agents and by state and local police departments. Criminal justice and organized crime scholar Humbert S. Nelli writes that “Prohibition overburdened the criminal justice system and undermined respect for the nation’s law.” Another author recalled that “organization and methods… were hopelessly inadequate.” Professor McBain of Columbia Law School wrote in 1928 that “the large-liquor drinking public has been indifferent to, if not positively in favor of, the corruption that helps to keep the stimulating stream flowing without interruption… the [police] force from the beginning has been thoroughly spoils-ridden. In many cities, the police were contemptuous of alcohol prohibition and did not enforce it: corruption flourished. History has repeated itself with the contemporary drug war.

After the Supreme Court’s decision in Printz, rejecting federal authority to order state and local officials to conduct background checks. National Handgun Prohibition might have to be a completely federal program. What kind of a federal enforcement agency would be needed to investigate and deter unlawful handgun possession? Currently, most illegal handguns are seized as a consequence of street or car stops made by local law enforcement agents: a frisk reveals the gun. Routine car and street stops are not the province of federal agents, who lack general street-level policing authority and experience. Perhaps BATF could be expanded into a super nationwide street-level police agency with tens of thousands of new agents? Such a move would have to overcome the opposition of the NRA, gun owners, some number of Congress, and others who excoriate BATF agents as “jack-booted minions.” It would also have to overcome those who oppose expanding federal power and expanding a great deal of federal funds. Undoubtedly, there would be opposition and resistence from fringe elements, who for years have warned of a colossal and despotic federal government. The number of militia groups would probably grow, with the potential for Waco-type standoffs and shootouts

## Vice Model

#### CP: CP: The United States Federal government ought to adopt the vice model, and forbid sale of handguns, but not ownership

Kaplan 81. The Wisdom of Gun Prohibition Author(s): John Kaplan Source: The Annals of the American Academy of Political and Social Science, Vol. 455, Gun Control (May, 1981), pp. 11-23 Published by: Sage Publications, Inc. in association with the American Academy of Political and Social Science.

Instead of attempting to deal with the huge reservoir of guns or even only of handguns, a more cost-effective means of gun control might be the application of what is called the vice model, which forbids the sale of firearms, but not their ownership. The major advantage of such a law would be the avoidance of the large social costs inherent in turning millions of otherwise law-abiding citizens into criminals. At the same time, an effective prohibition on sale would, over time, gradually reduce the number of guns in private possession. At first glance, criminalizing the selling of guns might appear logically inconsistent with our failing to punish the buying as well. In fact, this is not the case. In drafting laws, we often draw the line between legal and illegal conduct so that maximum reduction in the proscribed behavior can be gained at minimum social cost. Frequently it turns out that laws aimed solely at suppressing sales are more cost-effective in reducing the possession and use of a substance than are laws that attempt to suppress possession directly.18 There are several reasons for this. First, there are fewer sellers than buyers; this permits a concentration of law enforcement efforts where they do the most good. Second, juries are likely to be more sympathetic to a "mere" user, who may be ill-advised, than to a businessman who makes a profit from the weaknesses of others. States that have decriminalized small-scale marijuana possession and other "nonvictim" crimes have relied on this technique. Offenses treated under the vice model range from gambling, where the person who takes illegal bets is guilty of a crime, while the person who places them is not, to the offense of selling new automobiles not equipped with seat belts, where the seller, rather than the buyer, is guilty of an offense. Although it is true that a simple prohibition on sales or transfers of guns would probably be more efficient than a broader prohibition that also forbade their use or possession, even prohibitions on sales would be ineffective if the demand for the product and the resistance to the law were too great. We must remember that Prohibition itself never criminalized the possession or use of alcohol. As a result, we will examine a prohibition upon the sale of guns as if it encompassed only handguns, on the theory that the same factors that would make a complete prohibition on handguns more cost-effective than one on all guns would also apply to application of the vice model.

#### No illicit market – not enough

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On the other hand, the very permanence of the gun works to lower the social costs of attempting to suppress sales of the weapon. In the case of guns, the illegal seller will have a much smaller market for repeat business than is the case with alcohol or drugs. It is difficult to speculate on what an illegal handgun supply industry would look like if sales were forbidden. It is by no means clear that it would look like the alcohol industry under Prohibition or our present illegal drug industry, since both the total demand and the economies of scale would seem to be far greater in the former cases than with respect to guns. Even if the robber had to dispose of his weapon more often, illegal sellers would probably lack the repeat business that characterizes a drug connection.

#### Solves better – prohibition proves your enforcement would fail

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